IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.MC.No. 7196 of 2002()

PETITIONER: ACCUSED NOS. 1 AND 2]

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1. ABDUL SALAM, S/O.ABU, PROPRIETOR,
MILAN READYWEAR, ROUND WEST, THRISSUR.

2. LATHEEF S/O.ABU, MAMPARAMBATH HOUSE,
THOYAKKAVU P.O., THRISSUR

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

ADDL.2. UNNIKRISHNAN, S/O.MADHAVAN NAIR, KOOTALA HOUSE,
POOMKUNNAM, THRISSUR DISTRICT.

(ADDL. R2 IS IMPLEADED AS PER ORDER DT.21.7.05 ON
CRL.MP.2048/04)

BY PUBLIC PROSECUTOR SRI.K.C.SANTHOSH KUMAR
SRI.G.SREEKUMAR (CHELUR)

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.HEMA, J.

CRL.M.C.NO.7196 of 2002

Dated this the 7th day of September, 2007

O R D E R

This petition is filed to quash the FIR and the complaint filed against the petitioners by the second respondent herein. The complaint is filed alleging various offences under Sections 417, 465, 468, 471 and 34 IPC. A prayer is made in the complaint to forward the complaint to the police for investigation under Section 156(3) of the Code of Criminal Procedure ('the Code', for short). The complaint was forwarded and an FIR was registered.

2. According to the petitioners, they are brothers. There was some business transaction between the petitioners and the complainant-respondent in connection with sale of audio and video cassettes of films. In the course of the transaction, certain cheques were allegedly issued by the complainant to the petitioners for discharge of a legally enforceable debt. But those bounced. Therefore, the first petitioner was forced to file a complaint, copy of which is marked as Annexure-C, before the Chief Judicial Magistrate's Court, alleging offence under Section 138 of the Negotiable Instruments Act against the respondent-complainant.

3. But, as the counter blast to the said complaint, it is submitted that the present complaint is filed by the respondent-complainant alleging offences of forgery, cheating etc. As per the allegations in the present complaint, copy of which is marked as Annexure-B, blank cheques were issued by the second respondent which were forged by the petitioner to make it appear that the complainant-respondent issued cheques for the discharge of a debt or liability.

4. When this petition came up for hearing, both sides submitted that the case instituted against the second respondent-complainant for offence under Section 138 of the Negotiable Instruments Act entered in an acquittal about one year back and the matter is not persuaded any further. Learned counsel for the petitioners also submitted that the petitioners are not intending to file any revision before the Sessions Court, nor are they proposing to file any appeal against the order of acquittal. Therefore, learned counsel for the complainant submitted that he has no objection in quashing the complaint, which, according to the petitioners, was filed as a counter blast to the complaint alleging offence under Section 138 of the Negotiable Instruments Act.

In the above circumstances, I find that there is no point in prosecuting the present complaint and it will only amount abuse of process of court, if the proceedings are allowed to continue. Hence, the FIR which is marked as Annexure-A, which is registered on the basis of a complaint filed by the respondent-complainant before the Chief Judicial Magistrate Court is hereby quashed.

The petition is allowed.

K.HEMA, JUDGE

vgs.

K.HEMA, J.

CRL.M.C.NO.7196 OF 2002

ORDER

7.9.2007